



POLICE DEPARTMENT

September 29, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Michael Freeman
Tax Registry No. 919071
105 Precinct
Disciplinary Case No. 2011-5171

The above named member of the Department appeared before me on May 13, 2014, charged with the following:

1. Said Police Officer Michael Freeman, while assigned to the 105th Precinct, on or about and between February 28, 2010 and June 20, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer on multiple occasions requested assistance from other members of the service to prevent the processing and adjudication of summonses issued to various individuals.

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT
GENERAL REGULATIONS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charge and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 17-year member of the Department, is presently assigned to the 105 Precinct. During his career, he has made over 100 arrests and assisted in hundreds of others. He has consistently been evaluated 3.0 or above.

Respondent is one of three union delegates assigned to the 105 Precinct. As a delegate, he helps members with management and in any other way they need assistance. Respondent knows Police Officer Christopher Scott, who was a delegate at the 48 Precinct. On February 28, 2010, Respondent called Scott and asked him to stop the processing of a ticket.

When Respondent was asked during his official Department interview on June 21, 2011 if he may have assisted in delaying the adjudication for other tickets, Respondent said it was possible. When the investigator asked if the number of tickets was ten, Respondent said no. When the investigator asked if the number of tickets was five, Respondent said no. When the investigator asked if it was three or four, Respondent said, "That was possible." Respondent did not have any specific recollection or information about any of these three or four tickets.

On cross-examination, Respondent agreed that he asked Scott's help to stop the processing of a ticket for a criminal court summons. The telephone conversation with Scott was wiretapped. Respondent admitted that he did not recall the conversation with Scott until he listened to the wiretapped conversation during his official Department

interview. He acknowledged that during his interview, he said that when officers reached out to him for help with a summons, he would speak with a delegate or the issuing officer.

Respondent admitted that he knew that fixing a ticket meant pulling the ticket before it was processed. He was aware that fixing the ticket in court meant that the issuing officer would not testify "completely," so the ticket would be dismissed.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on April 15, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pled guilty to engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department by requesting the assistance of other MOS on multiple occasions to prevent the processing and adjudication of summonses issued to various individuals.

The Advocate recommended that Respondent be suspended for five days and forfeit 25 vacation days, for a total forfeiture of 30 days, and that he serve one year on dismissal probation, which is the established standard penalty that has been imposed by the Police Commissioner where a MOS has assisted or requested the assistance of another MOS to prevent the processing and adjudication of two or more summonses.

Respondent's attorney argued that although Respondent pled guilty to the specification, he should receive less than the standard penalty. Without Respondent's admission during his interview, the Advocate had no evidence to prove that Respondent was involved with more than one summons. Respondent did not remember at his interview or this hearing, when or whether he actually tried to take care of the three or four summonses on those other occasions. His admission about the fixing of other tickets was vague. Thus, Respondent's attorney argued, Respondent should be penalized for only the one occasion that he knew he tried to take care of a summons, which was recorded on tape. Respondent's attorney also argued that Respondent's fine record of service warrants a lesser penalty.

Respondent has not presented sufficient justification to warrant a departure from the established standard penalty. Respondent admitted to having requested assistance to prevent the processing and adjudication of summonses on multiple occasions by his guilty plea. Respondent's guilty plea relieves the Advocate's Office of providing any more proof. Nor has the standard penalty been changed because of a member's good record of service.

This penalty recommendation is informed by penalties approved the Police Commissioner in recent cases where MOS have engaged in similar misconduct. *See Case No. 2011-5714* (July 18, 2014), *Case No. 2012-6848* (March 26, 2014), *Case No. 2011-5642* (Feb. 18, 2014).

Therefore, it is recommended that Respondent be DISMISSED from the New York City Police Department; however, this penalty of dismissal will be held in abeyance pursuant to Section 14-115(d) of the NYC Administrative Code for a period of one-year, during which time Respondent will remain on the force at the Police Commissioner's discretion and may be terminated at any time without a further hearing. It is further recommended that Respondent be suspended for five days and that he forfeit 25 vacation days for a total forfeiture of 30 days.

Respectfully submitted,



Amy J. Porter

Assistant Deputy Commissioner - Trials

APPROVED

NOV 10 2014

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MICHAEL FREEMAN
TAX REGISTRY NO. 919071
DISCIPLINARY CASE NO. 2011-5171

Respondent received an overall evaluation rating of 3.5 in 2013 and 2012. In 2011 he received a rating of 3.0. [REDACTED]
[REDACTED] He has no prior formal disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner - Trials